



WISCONSIN LEGISLATURE

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Received & Inspected

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FCC Mail Room

August 22, 2014

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Petitions of the Electric Power Board of Chattanooga, Tennessee, and the City of Wilson, North Carolina Pursuant to Section 706 of the Telecommunications Act of 1996, for Removal of Barriers to Broadband Investment and Competition

Dear Secretary Dortch:

We are writing to urge the Commission to deny the request of the above captioned petitioners who have asked the FCC to preempt the laws of Tennessee and North Carolina related to limits imposed on government owned and operated broadband and telecommunications systems.

As the Chairman of the standing legislative committees with jurisdictional oversight of communications legislation in Wisconsin our specific interest is to protect laws passed in our state which establish conditions under which a municipal entity could construct, own or operate a video, telecommunications or broadband Internet system which would compete directly with similar privately owned and operated systems.

Actions in this matter by the FCC are being closely watched in the states and it is understood that Chairman Wheeler has publicly pondered pursuing preemption of state laws related to municipal communications facility ownership.

Were the Commission to grant all or parts of the petitioner's requests it is clear that laws in other states could be subject to similar preemption petitions. It is our hope that the Commission will leave in place state laws that have been adopted related to municipal communications facility ownership in efforts to protect municipal taxpayers as well as preserve a competitive communications marketplace.

Over a decade ago, the Wisconsin government adopted bi-partisan Act stipulating conditions for municipal video, telecommunications and data plant ownership. 2003 Wisconsin Act 278 does not prohibit municipally owned communications systems but rather prohibits local *taxpayer subsidization* of a municipally owned communications system. Additionally, the Wisconsin law requires a municipality to prepare a feasibility study and conduct public hearings prior to commencement of construction and operation of voice,

video or broadband facilities in the state. These requirements may be suspended if the local voters approve the project in a referendum or if it can be demonstrated that the facilities will not be in competition to existing privately owned facilities. The purpose of the law is to ensure local voters and taxpayers are informed of municipal communication facility plans and to prevent government owned networks from crowding out private investment and innovation in Wisconsin.

In the past decade there have several municipalities who were able to meet the criteria established in 2003 WI Act 278 and construct government owned voice, video or broadband Internet systems. Unfortunately for local taxpayers, most of these projects have failed to produce the anticipated revenues and have had to petition the Wisconsin Public Service Commission to disband their network and attempt to sell off remaining assets. The gross failures of these municipally owned systems are detailed in Commission filings from communities like Shawano, Jackson and Antigo Wisconsin.

In 2003 a Democratically controlled State Senate joined with a Republican controlled State Assembly and a Democratic Governor to enact a "municipal overbuild" law which has helped Wisconsin citizens be more active and informed in instances where municipal governments seek to construct and operated communications facilities.

It is our hope that the Federal Communication Commission of the United States does not intervene in our state in any way which would leave all or parts of this law unenforceable.

Thank you for your consideration of these comments.

Sincerely



Senator Paul Farrow

Chairman, Senate Committee on Government Operations, Public Works and Telecommunications



Representative Mike Kuglitsch

Chairman, Assembly Committee on Energy and Utilities